

AMENDED IN SENATE JANUARY 25, 2012

AMENDED IN SENATE JANUARY 4, 2012

SENATE BILL

No. 455

Introduced by Senator Pavley

February 16, 2011

An act to amend Section 4604 of, and to add Article 7.6 (commencing with Section 4595) to Chapter 8 of Part 2 of Division 4 of, the Public Resources Code, relating to forestry.

LEGISLATIVE COUNSEL'S DIGEST

SB 455, as amended, Pavley. Forestry: watersheds: timber harvesting plans.

(1) The Z'berg-Nejedly Forest Practice Act of 1973 prohibits a person from conducting timber operations unless a timber harvesting plan prepared by a registered professional forester has been submitted to, and approved by, the Department of Forestry and Fire Protection. A violation of the act is a crime.

The bill would *enact the California Watershed and Timberland Conservation Act of 2012, which would* authorize a person to file a watershed timber harvest plan (WTHP), as defined, for the purpose of conducting timber operations. The bill would require the WTHP to be prepared by a registered professional forester and filed with the department in writing and would require the forester to certify and provide a report describing the inspection of the WTHP area. By creating a new crime in the act, the bill would impose a state mandated-local program.

The bill would require the WTHP to contain certain information, including the name and address of the timber owner and timberland owner. The bill would require the WTHP to include all information

otherwise required of a timber harvest plan relating to environmental impacts, mitigation measures, and feasible alternatives, and a sustained timber production assessment that includes certain information, including a summary table of wildlife habitat relationships, compositions, and state structure types. The bill would require the WTHP to also include a watershed assessment and planning segment and a fish and wildlife assessment, as specified.

The bill would require the department to provide notice of the filing of the WTHP and any amendments to the WTHP to any person who requests it, and would require the department to place the WTHP, or a copy, in a file available for public inspection and to post a copy on the department's Internet Web site. The bill would authorize the department to assess an application fee for its appropriate costs in reviewing a WTHP and accompanying environmental impact report.

The bill would require a compliance report to be filed every 2 years with the department by every landowner with an approved WTHP.

The bill would require the director of the department to determine whether the WTHP conforms with the rules and regulations of the State Board of Forestry and Fire Protection. If the director determines that the WTHP would violate any applicable rule, law, or regulation, the bill would require the director to return the WTHP stating his or her reasons. The bill would permit a person to whom the WTHP is returned to request a public hearing before the board, as provided.

The bill would require that an approved WTHP and the related environmental impact report be effective for a period of 20 years.

The bill would require the director in conjunction with all responsible and trustee agencies to conduct a comprehensive review at each 2-year interval of a WTHP and, if a plan is found to be out of compliance, to suspend the plan until the director determines that the WTHP is amended and in compliance. The bill would require the plan submitter to notify each county recorder in which lands subject to the WTHP are located. The bill would authorize the WTHP landowner to cancel the WTHP by submitting written notice to the department. The bill would require the WTHP landowner to file a notice with the department if he or she plans to conduct timber operations on the land within a given year. The bill would require the director to approve a notice of WTHP activities in specified circumstances, unless the information contained in the notice is incorrect, incomplete, or misleading in a material way, or inconsistent with the WTHP.

The bill would require the landowner, upon completion of WTHP activities, to file a report of satisfactory completion. The bill would require the landowner to file with the department a compliance report within 2 years of the approval date of the WTHP, and for every 2 years thereafter, until all units in the WTHP area have received completion reports.

The bill would require the director to report to the Legislature, beginning December 31, 2017, and every 5 years thereafter, on these provisions and any amendments needed to these provisions. The bill would require that timberland conversions of greater than one acre to nonforest uses, including all harvesting necessary to complete a timberland conversion, be fully mitigated, including, but not limited to, mitigation for any depletion of current or future carbon stocks.

(2) The act requires the department to provide an initial inspection of the area in which timber operations are to be conducted within 10 days from the date of filing of the timber harvesting plan or a nonindustrial timber management plan, or a longer period as may be mutually agreed upon by the department and the person submitting the plan.

This bill would require the department to also provide an initial inspection of the area in which timber operations are to be conducted within in 10 days from the date of filing of a WTHP.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known as the California
- 2 Watershed and ~~Forestland~~ Timberland Conservation Act of 2012.
- 3 SEC. 2. (a) The Legislature finds and declares that it is the
- 4 policy of the state to encourage prudent and responsible long-term
- 5 forest management of timberlands to maintain the economic use
- 6 of those timberlands and their climate and public benefits, minimize
- 7 the cost of project review for state and local government and
- 8 associated impacts to the General Fund, and provide for an efficient

1 and predictable permitting process for the landowner, effective
2 regulatory oversight, and comprehensive environmental impact
3 analysis, mitigation, and protection.

4 (b) It is the intent of the Legislature to establish an optional,
5 voluntary, watershed-scale timber harvest permitting process that
6 coordinates the permitting requirements of the various responsible
7 and trustee agencies involved in the review of watershed-scale
8 timber harvest plans, including, but not limited, to the Department
9 of Forestry and Fire Protection, the appropriate California regional
10 water quality control board, the Department of Fish and Game,
11 the Department of Conservation, and other public agencies.

12 (c) It is the intent of the Legislature that the timber harvest
13 permitting process established by this act lead to measurable
14 climate benefits in existing biological carbon stocks on the
15 timberlands covered by this permitting process, while fostering
16 other public benefits, and that long-term sustained yield include
17 analysis of carbon stocks that demonstrates attainment of these
18 objectives.

19 (d) It is the intent of the Legislature that timberland enrolled in
20 the watershed-scale *timber harvest* permitting program established
21 by this act shall be maintained as forestland, and not converted to
22 nonforest uses during the effective period of the permit.

23 (e) It is the intent of the Legislature to maintain and enhance
24 the climate benefits of California's timberlands by ensuring that
25 any loss of timberland *and carbon sequestration* due to conversion
26 to a nonforest use is mitigated.

27 (f) It is the intent of the Legislature that any watershed timber
28 harvest plans (WTHP) prepared under the permitting authority
29 established by this act will support the issuance of state permits
30 necessary to conduct timber operations over a 20-year period and
31 that agencies and departments with regulatory permitting authority
32 for activities necessary to implement timber operations concur
33 with the WTHP in writing prior to approval by the department.
34 Responsible and trustee agencies are expected to conduct joint
35 field inspections to resolve interagency disagreements because
36 discussions about resource management are often more effective
37 when they occur in the field.

38 (g) It is the intent of the Legislature to encourage forests to be
39 managed for structural and biological diversity, ~~to create~~ more
40 structurally diverse wildlife habitat, ~~to enhance~~ resilience to climate

change and wildfire, to increase carbon sequestration, and to protect protection of public trust resources.

(h) *It is the intent of the Legislature that, to the extent possible, responsible and trustee agencies will be able to rely on the information and analysis contained within the WTHP in exercising their duties under this article and other applicable law.* It is not the intent of the Legislature to constrain the authority of any responsible or trustee or other public agency with review authority over a WTHP. However, it is the intent of the Legislature that this environmental analysis and permit will achieve the needs of all state agency timber harvest-related permits concurrently.

(i) It is the intent of the Legislature that the state agencies involved in the review of a WTHP have the staff and fiscal resources to be fully engaged in the review and approval of the WTHP, its environmental analyses, and the other activities enumerated in Article 7.6 (commencing with Section 4595) of Chapter 8 of Part 2 of Division 4 of the Public Resources Code.

(j) It is the intent of the Legislature to recognize that landowners with an interest in providing conservation benefits should be allowed to participate in mitigation activities, including mitigation banking, that add economic value to the conservation activities undertaken pursuant to this act and other specified, beneficial environmental actions.

SEC. 3. Article 7.6 (commencing with Section 4595) is added to Chapter 8 of Part 2 of Division 4 of the Public Resources Code, to read:

Article 7.6. Watershed Timber Harvest Plan (*WTHP*)

4595. Notwithstanding Section 4521, unless the context requires otherwise, the following definitions govern the construction of this article:

(a) ~~“Assessment—~~“*WTHP assessment area*” means *all or a* portion of the ownership that has similar geological, climatic, and hydrological conditions. An assessment area may include land not owned or controlled by the plan submitter, as necessary to create a logical assessment unit. The assessment area shall be comprised of *at least* one or more planning watersheds. A watershed timber harvest plan (~~WTHP~~) may be comprised of one or more assessment areas.

1 (b) “Onsite biological carbon stocks” means carbon in all
2 above-and-below ground carbon pools, including, but not limited
3 to, standing trees (including both live and dead trees, snags, and
4 hardwoods), understory vegetation, lying dead wood, roots, and
5 soils.

6 ~~(b)~~

7 (c) “Ownership” means the land owned by the timberland owner
8 or timber owner.

9 ~~(e)~~

10 (d) “Planning watershed” means a planning watershed as
11 delineated in the California Interagency Watershed Mapping
12 Committee (CalWater) planning watershed maps.

13 ~~(d)~~

14 (e) “Watershed timber harvest plan” or “WTHP” means a
15 20-year management plan and timber harvesting permit for
16 timberlands that are located within ~~an assessment area that~~
17 ~~establishes objectives of sustained yield, and increasing biological~~
18 ~~carbon and structural diversity for each parcel or group of parcels~~
19 *a WTHP area* for which timber harvesting is authorized pursuant
20 to this article. *The size and scope of the WTHP shall be restricted*
21 *to a landowner’s ownership within a forest district, as defined by*
22 *the board pursuant to Section 4531.*

23 ~~(e)~~

24 (f) “Watershed timber harvest plan notice” or “WTHP notice”
25 means a document that provides ~~public notice of a description of~~
26 timber harvest operations to be conducted pursuant to and
27 consistent with an approved WTHP that meets the requirements
28 of this article.

29 4595.1. (a) Except as modified in this article, the provisions
30 set forth in this chapter, and applicable regulations adopted by the
31 board that implement this chapter, shall apply.

32 (b) Except as *otherwise expressly* provided, *nothing* in this
33 ~~article, applicable provisions of shall modify or affect~~ the
34 California Endangered Species Act (Article 3 (commencing with
35 Section 2080) of Chapter 1.5 of Division 3 of the Fish and Game
36 Code), the California Environmental Quality Act (Division 13
37 (commencing with Section ~~21000~~ 21000)), the Porter-Cologne
38 Water Quality Control Act (Chapter 1 (commencing with Section
39 13000) of Division 7 of the ~~Water Code Code~~), ~~and or any other~~

1 provisions of state law ~~apply~~ *applicable* to timber operations
2 authorized pursuant to this ~~article~~ *chapter*.

3 (c) ~~All~~ *Except as expressly provided in this article*, all timber
4 operations within an approved WTHP shall be conducted pursuant
5 to this ~~article~~ *chapter*.

6 4595.2. (a) A WTHP shall be filed with the department in
7 writing. A WTHP shall be prepared by a registered professional
8 forester and it shall be a public record and the WTHP and any
9 modifications thereto shall be available electronically to the public.

10 (b) Notwithstanding Section 4581, a person may conduct timber
11 operations pursuant to a WTHP, as authorized pursuant to this
12 article.

13 4595.3. The WTHP shall include all information otherwise
14 required of a timber harvest plan relating to environmental impacts,
15 mitigation measures, and feasible alternatives. All feasible
16 mitigation measures necessary to reduce environmental impacts
17 to a less than significant level shall be incorporated into and shall
18 be enforceable under the WTHP. *It is the intent of the Legislature*
19 *that formalized monitoring and adaptive management criteria are*
20 *incorporated into a WTHP.* The analysis of environmental impacts
21 shall be conducted for the entire watershed and assessment area
22 with sufficient detail to allow contemplated timber operations to
23 proceed without the need for further environmental review, except
24 as provided by this article.

25 4595.3.1. A WTHP shall also include all of the following
26 information, *however, proprietary information shall remain subject*
27 *to Section 21160:*

28 (a) Name and address of the timber owner and timberland owner.

29 (b) Ownership description and location, including legal
30 descriptions and maps depicting the ownership and management
31 units, which shall be at a scale sufficient to allow the director to
32 determine the area covered by the WTHP.

33 (c) Management objectives for resources addressed in the
34 WTHP, including forest products, carbon sequestration, and
35 structural retention.

36 (d) A general narrative description of the forest types, fish and
37 wildlife habitats, and watercourses and lakes.

38 (e) Descriptions of the assessment area and rationale for
39 assessment area selection.

1 (1) The assessment area shall not exceed 100,000 acres unless
2 designation of a larger area is explained and justified in the WTHP
3 and determined by the director to be consistent with an approved
4 habitat conservation plan or natural community conservation plan.

5 (2) All planning watersheds included in the assessment area
6 shall be adjacent to or hydrologic subparts of, that assessment area.

7 (f) Identification and mapping of planning watersheds classified
8 as sensitive watersheds *by the board* and descriptions of the
9 measures taken to protect resources within those watersheds.

10 (g) Other provisions deemed necessary by the board *and the*
11 *responsible or trustee agencies* in order to provide the information
12 necessary to ~~function as the basis for an interagency permit support~~
13 *the review and issuance of a WTHP.*

14 4595.4. (a) A WTHP shall include a sustained timber
15 production assessment that clearly demonstrates consistency with
16 the protection of soil, water, air, carbon sequestration, fish, and
17 wildlife resources, and how the submitter will achieve maximum
18 sustained production of high-quality timber products while giving
19 consideration to regional economic vitality and employment at
20 planned harvest levels during the planning horizon.

21 (b) If the WTHP is based upon data on file with the director,
22 the data shall be updated no sooner than 10 years and no later than
23 11 years after the WTHP's initial approval. ~~Proprietary information~~
24 ~~shall be treated as provided in Section 21160.~~

25 (c) The sustained timber production assessment required by
26 subdivision (a) shall include all of the following:

27 (1) A summary table of wildlife habitat relationship (WHR)
28 compositions and stand structure types, or comparable stand
29 structure types within forest vegetation types with their respective
30 acreage. For an ownership's specific stand structure types, the
31 registered professional forester shall provide a written description
32 of the stand structure and characteristics that define each type, and
33 comparisons of those types to WHR typing. The WHR system and
34 its uses as described in "A Guide to the California Wildlife Habitat
35 Relationships System," California Department of Fish and Game,
36 March 1988 is herein incorporated by reference.

37 (2) An estimate of the long-term sustained yield of the lands
38 proposed to be included in the WTHP, which shall be stated in
39 terms of board feet per year or cubic feet per year and include a
40 description of how the estimate was reached. If the ownership has

1 not attained long-term sustained yield, the WTHP shall estimate
2 and justify the transition period necessary to achieve long-term
3 sustained yield.

4 (3) A projection of growth and harvest for each WHR type or
5 comparable stand structure type within forest vegetation type over
6 each 10-year period in the planning horizon for each planning
7 watershed and a description, in narrative form, of the accuracy and
8 methodology used to estimate growth.

9 (4) An initial projection and periodic demonstration of sustained
10 and measurable increases in forest carbon stocks on the
11 timberlands, *excluding any decreases in stocks due to wildfire,*
12 *insect infestation, and disease,* both inside and outside of any
13 wildlife protection zones during the period covered by the WTHP,
14 which shall be provided to the director and electronically displayed
15 to the public at the end of every fifth year of the WTHP.

16 (5) An initial projection and periodic demonstrations of
17 achieving and sustaining structural retention over the life of the
18 permit, which shall be provided to the director and electronically
19 displayed to the public at the end of every fifth year of the WTHP.

20 (6) A discussion of the accuracy of the inventory data for the
21 management unit. Inventory data, models, and growth and harvest
22 projections utilized for harvest scheduling projections shall be
23 available for confidential audits by reviewing agencies along with
24 the basis for this data, including, but not limited to, the cruise
25 design and sample plot data and the statistical validity of those
26 estimates.

27 (7) A description of the silvicultural prescriptions applied to
28 each stand type, along with projected changes in WHR types or
29 stand structure types at five-year intervals that reflects planned
30 silvicultural application and growth of harvested and unharvested
31 stands.

32 (8) On lands controlled by the WTHP landowner, a disclosure
33 of those projected areas intended to be harvested within the period
34 covered by the WTHP permit, and the planned silvicultural method.

35 (d) The landowner shall include maps in the WTHP that show
36 spatial and temporal information about areas to be harvested,
37 including silvicultural method over the life of the permit. Every
38 four years the landowner shall provide the agencies and the public
39 with more specific maps that are consistent with the initial
40 projection. If the quadrennial updates differ significantly from the

1 initial projection, the WTHP shall be amended pursuant to this
2 chapter.

3 4595.5. A WTHP shall include a fish and wildlife assessment
4 that shall contain all of the following:

5 (a) The geographic area covered by the fish and wildlife impacts
6 assessment that shall be the same area as the assessment area level
7 in the WTHP. ~~Areas Publicly available wildlife data shall be used~~
8 ~~for areas~~ outside the ownership and shall be included at the request
9 of a responsible or trustee agency when necessary for its analysis
10 of the individual or cumulative effects of proposed timber
11 operations.

12 (b) Provisions that address threatened, endangered, and sensitive
13 species and nonlisted fish, and wildlife species upon which timber
14 operations could cause significant adverse individual or cumulative
15 impacts. The fish and wildlife assessment shall address those
16 species' habitat needs and the availability, shapes, and distribution
17 of habitats in relation to harvest schedule and growth projections
18 and the impacts of harvesting on those habitats. The WTHP shall
19 discuss and include all feasible measures planned to avoid or
20 mitigate potentially significant adverse environmental effects on
21 fish and wildlife.

22 (c) Maps by assessment area showing changes to wildlife habitat
23 relationship types or stand structure types that are likely to result
24 from projected timber operations.

25 (d) A description and demonstration that operations shall retain
26 and accrue, ~~if necessary to comply with this article,~~ structural
27 elements, including large live trees, dead snags and downed logs
28 ~~to that meet the minimum standards set forth in subdivision (b) of~~
29 ~~Section 4595.7, and provide appropriate any additional structure~~
30 ~~necessary~~ for wildlife.

31 4595.6. (a) Operations under a WTHP shall ensure that lands
32 stay in timber production, are managed in a manner that results in
33 an increase in total sequestered forest carbon both inside and
34 outside of any wildlife protection zones, and maintain a structurally
35 and biologically diverse landscape, resilient to climate change and
36 natural fire regimes.

37 (b) Lands enrolled in a WTHP shall be managed for timber
38 production for the life of the permit. If any timberland covered by
39 the permit is converted to a nontimber use or zoning is changed
40 to a status that would facilitate a nontimber use, the WTHP shall

be suspended pursuant to paragraph (5) of subdivision (a) of Section 4595.28.

(c) Timberlands covered by the WTHP shall be managed in a manner that increases the total volume of forest *sum of onsite biological carbon stocks* by at least ____ percent across actively managed timberlands on the subject property in the permit area over the life of the permit and shall be assessed and demonstrated to the department in a public document in five-year intervals.

(d) It is the intent of the Legislature that lands managed under a WTHP shall result in, *or where it already exists, maintain, a landscape with significant structural diversity, which persists over time. It is the intent of the Legislature to establish specific requirements in this section that result in substantial postharvest structural retention in order to enhance the diversity and resilience of managed timberlands throughout the area comprising the WTHP structural diversity that is consistent with this article, which persists over time.*

(e) Forest structure within each clearcut harvest unit along corridors of federal or state highways will be retained at one of the following levels, up to a maximum of one mile from the highway any even-aged harvest unit within one mile and visible from a federal or state highway shall be retained at one of the following levels:

(1) High retention – in areas that the registered professional forester determines to be directly visible from a federal or state highway, an average of at least eight trees per acre, 16 inches diameter at breast height or greater, will be retained. The spacing of retained trees will average approximately 50-75 feet or clumped to mimic natural openings. Retained trees will be representative of the stand.

(2) Moderate retention – in areas that the registered professional forester determines to have partial screening due to topography, slope, distance, or adjacent stands, an average of at least six trees per acre, 16 inches diameter at breast height or greater, will be retained. The spacing of retained trees will average approximately 75-100 feet or clumped to mimic natural openings. Retained trees will be representative of the stand.

4595.7. (a) In the WTHP plan the registered professional forester shall describe in sufficient detail to provide for review and evaluation information on all of the following:

(1) The types of trees and structural elements that will be retained and the objective intended to be achieved by retention.

(2) The planned distribution and quantity of retained trees and the intended duration of the retention.

(3) Any potential future conditions or events reasonably known to the forester that would allow harvest of retained trees.

(b) (1) Retention for this article may be either dispersed or aggregated.

(2) Dispersed retention shall be measured in average basal area per acre and at a minimum shall equal ____ percent of the Resource Conservation Standards for minimum stocking basal areas, contained in paragraph (2) of subdivision (b) of Section 912.7 of Title 14 of the California Code of Regulations.

(3) Where retention is aggregated into groups that are greater than or equal to ____ acres, the percentage of harvest unit area shall be the standard. The sum of all areas within groups divided by harvest unit acres will be used to determine the percentage of aggregated retention in the harvest unit. The minimum aggregate structural retention standard shall be ____ percent of the harvest unit acres.

(c) Areas and trees located within the boundaries of a ~~WLPZ~~ *wildlife protection zone* identified in the forest practice rules will be excluded from calculating retention pursuant to subdivision (b).

(d) Trees designated for structural retention that are intended for future harvest and decadent trees, hardwoods, or snag recruitment trees shall be retained for the life of the permit.

4595.8. A WTHP shall include a watershed *resource* assessment and planning segment that shall include all of the following:

~~(a) The minimum assessment area, which shall not be less than a planning watershed.~~

~~(b)~~

(a) An analysis of potentially significant adverse environmental impacts, including cumulative impacts, of the planned operations and other projects, including, but not limited to, impacts on ambient water quality *and the beneficial uses of water*, retention of forest structure, fisheries, wildlife, and other environmental values, including ~~forest onsite biological~~ carbon stocks.

~~(e)~~

1 (b) (1) A description of the individual planning watersheds in
2 sufficient detail to allow a review of the analysis of impacts.

3 (2) For all planning watersheds in the assessment area within a
4 forest district, descriptions shall include, as appropriate, either or
5 both of the following:

6 (A) General maps and descriptions of unstable areas and
7 unstable soils known to the plan submitter to be actively or
8 potentially discharging sediment, as well as those mapped by public
9 agencies.

10 (B) A description of the rules, regulations, and practices,
11 *including site specific practices*, to be used to minimize erosion
12 from timber operations *and address impairments identified*
13 *pursuant to the Clean Water Act (33 U.S.C. Sec. 1251, and*
14 *following)*. A description of the rules, regulations, and practices
15 that are implemented to maintain water temperatures that meet or
16 exceed the standards established in relevant basin plans and other
17 applicable provisions of the Porter-Cologne Water Quality Control
18 Act (Division 7 (commencing with Section 13000) of the Water
19 Code).

20 (3) For all planning watersheds in which harvesting will take
21 place, descriptions shall include, as appropriate, either or both of
22 the following:

23 (A) A map of all public roads, which includes United States
24 Forest Service cost-shared roads within the WTHP area, as well
25 as an inventory and plan for management of all the permanent,
26 seasonal, and temporary roads controlled by the landowner. On
27 roads controlled by the landowner, the road inventory shall do all
28 of the following:

29 (i) Identify problem areas that are discharging sediment in
30 violation of basin plan standards to waterways or that are
31 threatening to discharge sediment to waterways, or are otherwise
32 causing environmental harm or in need of maintenance.

33 (ii) Prioritize *identified* road-repair sites.

34 (iii) ~~Schedule~~ *Provide a schedule of* repair of the *prioritized*
35 road sites.

36 (B) An identification of areas known to be sensitive to ground
37 disturbance that may become sources of erosion and sediment in
38 streams.

39 ~~(d)~~

1 (c) A discussion of feasible measures included in the plan that
2 will mitigate or avoid significant adverse impacts on traffic
3 associated with log hauling on public roads that may be used for
4 timber hauling, including a discussion of any measures necessary
5 to mitigate impacts on the adjacent community.

6 ~~(e)–~~

7 (d) A discussion of the range of projected impacts of climate
8 change in the region covered by the WTHP and a discussion of
9 management considerations and desired future forest conditions
10 that will promote a resilient forest in the future.

11 4595.9. The registered professional forester preparing the
12 WTHP shall certify and provide a report describing his or her, or
13 a designee's, inspection of the WTHP area.

14 4595.10. The notice of receipt of the proposed WTHP shall be
15 given by the department within two working days following
16 submission of the proposed WTHP. The method of notice shall be
17 by United States Postal Service, or at the discretion of the
18 department, may be sent electronically. The person submitting the
19 WTHP shall provide to the department a list of the names and
20 addresses of persons to whom the notice is to be mailed.

21 4595.11. (a) The department shall provide notice of the filing
22 of the WTHP and any amendments to the WTHP to any person
23 who requests, either in writing or through electronic means. Upon
24 receipt of the WTHP, the department shall place ~~it,~~ *the WTHP*, or
25 a true copy of the WTHP, in a file available for public inspection
26 in a county in which timber operations are proposed under the
27 WTHP. The department shall also post a copy of the notice
28 electronically on the department's Internet Web site.

29 (b) For the purpose of coordinated interdisciplinary and
30 multiagency review, the department shall transmit a written or
31 electronic copy of the WTHP to the Department of Fish and Game,
32 Department of Conservation, the appropriate California regional
33 water quality control board, the county planning agency, and all
34 other public agencies having jurisdiction by law over natural
35 resources affected by the proposed WTHP.

36 (c) To the extent necessary to cover expenses associated with
37 the review and approval of the WTHP submitted, the department
38 and trustee or responsible agencies may assess a fee to cover the
39 WTHP review and approval costs, not to exceed a total of one
40 hundred thousand dollars (\$100,000).

(d) Prior to approval of a WTHP, all state trustee and responsible agencies, which have jurisdiction over resources that may potentially be impacted by proposed operations, shall jointly conduct at least one comprehensive field review of the proposed WTHP. *Each trustee and responsible agency shall have the authority to require that a WTHP be supplemented with any additional information necessary to enable that agency to carry out its statutory and regulatory responsibilities. Notwithstanding Section 4604, this field review shall be completed within ____ days.*

(e) The director shall ~~only~~ approve the WTHP upon written concurrence from ~~all~~ the trustee and responsible agencies ~~that the operations conducted pursuant to the WTHP will enable compliance with their respective statutory and regulatory obligations and that the WTHP analyzes all significant environmental effects and includes feasible mitigation measures to minimize environmental impacts, consistent with Section 4595.3.~~ *in all of the following:*

(1) *That the WTHP contains information and analysis sufficient to enable those agencies to comply with their respective statutory and regulatory obligations.*

(2) *That the WTHP analyzes all significant environmental effects and includes all feasible mitigation measures to minimize or avoid environmental impacts, consistent with Section 4595.3 and any other applicable law.*

(3) *That operations pursuant to the WTHP will not result in a violation of any law or regulation within the jurisdiction of the concurring agency.*

(f) *The WTHP provisions of this article shall not be operative until such time that the fee described in subdivision (c) has been adopted and is in effect.*

4595.12. The WTHP landowner shall file with the department a compliance report within two years of the approval date of the WTHP, and every two years thereafter, until all units in the WTHP have received completion reports from the department. The report shall address the findings of any inspection conducted under Section 4604 or 4595.29 since the date of the last compliance report. The report shall include a certification by the registered professional forester that the WTHP has been carried out in

1 compliance with the provisions of the WTHP and other applicable
2 laws and regulations.

3 4595.13. In addition to any other field review of the WTHP or
4 its annual operations, the department shall require a mandatory
5 field review at year 10, with the full participation of all responsible
6 and trustee agencies, to evaluate whether the WTHP is in
7 compliance with this article. If the WTHP is found not to be in
8 compliance, the director shall suspend the WTHP and the
9 landowner shall initiate an amendment process pursuant to this
10 chapter to ensure that the WTHP will comply with all applicable
11 laws and regulations.

12 4595.14. WTHPs shall be filed, reviewed, approved, amended,
13 and appealed according to the same procedures applicable to timber
14 harvest plans as set forth in this chapter, *the rules and regulations*
15 *of the board, and all other applicable laws*. The director shall make
16 a determination whether the WTHP conforms with the rules and
17 regulations of the board, identifies and mitigates potentially
18 significant adverse environmental effects, and conforms to the
19 requirements of this chapter.

20 4595.15. (a) If the director determines that the WTHP would
21 violate an applicable rule, law, or regulation, the director shall
22 return the WTHP, stating his or her reasons, and advise the person
23 submitting the WTHP of the person's right to a hearing before the
24 board.

25 (b) If the director is unable to approve a WTHP due to
26 nonconcurrence by a review team agency, that agency shall explain
27 the reason in writing within 10 days *of its nonconcurrence*.

28 (c) A person to whom a WTHP is returned may, within 10 days
29 from the receipt of the WTHP, request a public hearing pursuant
30 to this section. The board shall conduct a public hearing with the
31 participation of the appropriate California regional water quality
32 control board, the Department of Fish and Game, and all other
33 reviewing trustee, responsible, or other public agencies, to evaluate
34 the WTHP and determine if the WTHP conforms with the rules
35 and regulations of the board and other provisions of this chapter.

36 (d) The board shall act no later than 30 days after the date of
37 the filing of the appeal, or a longer period mutually agreed upon
38 by the board and the person filing the appeal.

39 4595.16. (a) An approved WTHP shall be effective for a period
40 of 20 years.

1 (b) Every two years after the initial WTHP approval, the
2 director, in conjunction with all trustee and responsible agencies,
3 shall conduct a comprehensive review of the WTHP at each
4 two-year interval of a WTHP to ensure compliance with this article.
5 If found to be out of compliance, the director shall suspend the
6 WTHP until the director determines that the WTHP is amended
7 and in compliance.

8 (c) Upon approval, the WTHP shall constitute the environmental
9 analysis for all appropriate and required timber harvest-related
10 permits from responsible and trustee agencies as well as the
11 department, and the terms of each of those permits shall be 20
12 years, notwithstanding any other provision of law.

13 4595.17. Upon approval of the WTHP, the plan submitter shall
14 notify each county recorder in which lands subject to the WTHP
15 are located and shall cause to be filed with that county a notice
16 that shall be recorded in sufficient detail for a title search to
17 disclose the existence of the WTHP. If there is a change of
18 ownership of the land described in the WTHP, the WTHP shall
19 expire 90 days from the date of change of ownership, unless the
20 new timberland owner notifies the department in writing of the
21 change of ownership and his or her assumption of the WTHP. The
22 new owner is responsible for completing any mitigation required
23 pursuant to any logging operations that have not been deemed
24 completed by the department, and shall comply with the mitigation
25 or other activities required pursuant to the other permits associated
26 with the WTHP.

27 4595.18. The WTHP landowner may cancel or suspend the
28 WTHP by submitting a written notice to the department. Once
29 timber operations have commenced pursuant to a WTHP notice,
30 cancellation is not effective on land covered by the notice until a
31 report of satisfactory completion and stocking has been issued
32 pursuant to Sections 4585, 4586, and 4587.

33 4595.19. (a) The WTHP landowner who owns, leases, or
34 otherwise controls or operates on all or any portion of timberland
35 within the boundaries of an approved WTHP, and who plans to
36 harvest the timber thereon during a given year pursuant to the
37 specifications in the WTHP, shall file a WTHP notice with the
38 department. The department shall, within two working days,
39 transmit a written or electronic copy of the notice to agencies and
40 members of the public who participated in the initial review or

1 who have requested notification of the WTHP and shall display
2 the proposed notice on a publicly available Internet Web site.

3 (b) A WTHP notice shall be filed at least 30 days prior to
4 ~~the harvesting of any timber~~ *conducting timber operations pursuant*
5 *to the WTHP*, and shall describe all operations to be conducted
6 under the notice for no less than 12 months or more than 18 months
7 and may include operations that were planned but not completed
8 in previous notifications.

9 (c) If the person who files the WTHP notice is not the WTHP
10 landowner *or his or her representative*, the person filing the notice
11 shall notify the forest landowner by certified mail that the notice
12 has been submitted, and shall certify that mailing to the department.
13 It shall also be posted on the department's Internet Web site.

14 (d) This article does not invalidate previously approved timber
15 harvesting plans for lands included in a WTHP. These timber
16 harvesting plans may remain effective at the option of the plan
17 submitter. If the landowner elects to have these existing plans
18 continue, the operational effects of these timber harvesting plans
19 shall be part of the analysis included in the WTHP.

20 4595.20. The notice shall be a public record and shall include
21 all of the following information:

22 (a) The name and address of the timber owner.

23 (b) The name and address of the timber operator.

24 (c) The name and address of the registered professional forester
25 preparing the notice.

26 (d) A description of the land on which the work is proposed to
27 be done.

28 (e) A statement that archeological areas identified in the WTHP
29 and any discovered during notice preparation will be protected or
30 appropriately managed.

31 (f) A statement that rare, threatened, or endangered plant or
32 animal species identified in the WTHP or during notice preparation
33 will be protected or managed appropriately.

34 (g) A statement that there have been no physical environmental
35 changes in the notice area that are so significant as to require an
36 amendment of the WTHP.

37 (h) Information demonstrating all of the following:

38 (1) The proposed operations are within the geographic area
39 covered by the WTHP.

1 (2) The proposed operations *were described in and* are consistent
2 with the WTHP.

3 (3) The proposed operations will implement all applicable
4 mitigation measures set forth in the WTHP.

5 (4) A statement identifying any minor deviation from the plan
6 as defined in Section 898.1 of Title 14 of the California Code of
7 Regulations. The director shall have five working days in which
8 to concur that the proposed deviation is minor, and is not a
9 substantial deviation pursuant to Section 898.1 of Title 14 of the
10 California Code of Regulations. A determination that a proposed
11 deviation is substantial would require an amendment to the WTHP.

12 (5) There have been no substantial changes with respect to the
13 circumstances under which the proposed operations are to be
14 undertaken *that will require revision of the analysis in the WTHP*
15 *due to the involvement of new significant environmental effects,*
16 *as would be required under the current CEQA Guidelines, enacted*
17 *pursuant to Section 15162 of Title 14 of the California Code of*
18 *Regulations.*

19 ~~(6) There is no new information of substantial importance, which~~
20 ~~was not known and could not have been known with the exercise~~
21 ~~of reasonable diligence at the time the WTHP was approved. For~~
22 ~~purposes of this section, the listing of a new species under either~~
23 ~~the state or federal endangered species acts shall not be considered~~
24 ~~new information if the WTHP analyzed impacts to such species~~
25 ~~and incorporated feasible mitigation measures, if the Department~~
26 ~~of Fish and Game, or other appropriate wildlife agency, finds that~~
27 ~~the WTHP analysis and any proposed mitigation reflects~~
28 ~~application of the best available scientific information.~~

29 (i) A certification by the registered professional forester that
30 the information in the notice is accurate and will conform with the
31 applicable rules, regulations, and practices designated in the WTHP
32 for protection of the beneficial uses of water, soil stability, forest
33 productivity, and wildlife.

34 (j) Special provisions, if any, to protect any identified unique
35 area within the area of timber operations, *except those*
36 *archeological resources designated as confidential.*

37 (k) The expected dates of commencement and completion of
38 timber operations.

39 (l) Satisfaction of any other applicable legal requirements.

1 4595.21. ~~(a)~~ Within 10 days of the receipt of the WTHP notice
2 required pursuant to Section 4595.20, the director shall contact
3 responsible and trustee agencies for the purpose of determining
4 the need for field inspections notwithstanding those required by
5 Section 4595.16. Within 20 days of the receipt of the WTHP notice,
6 or a mutually agreeable longer time, the director shall complete
7 the field review of proposed operations if necessary.

8 4595.22. ~~Operations may commence within 30 days of filing~~
9 *Within 60 days of the filing of the notice, the director shall approve*
10 *the proposed operations described in the notice, if all of the*
11 *following conditions are satisfied:*

12 (a) Public notice has been provided, including notice to
13 responsible and trustee agencies, *and all comments received from*
14 *the public or other agencies have been addressed in writing.*

15 (b) The director conducts a field review of the proposed
16 operations if determined necessary to confirm compliance with
17 the provisions of the WTHP ~~or if there is new information~~
18 ~~indicating a new significant environmental impact not already~~
19 ~~addressed in the WTHP.~~

20 (c) *The director determines that all environmental effects of the*
21 *proposed operations were adequately addressed in the WTHP,*
22 *including compliance with the current CEQA Guidelines contained*
23 *in Section 15152 of Title 14 of the California Code of Regulations.*

24 ~~(e)~~

25 (d) The director has confirmed that the notice contains the
26 information required in Section 4595.20 and that all such
27 information is accurate.

28 ~~(d)~~

29 (e) No trustee or responsible agency has objected that the notice
30 does not contain the information required in Section 4595.20.

31 ~~(e)~~

32 (f) The registered professional forester certifies that planned
33 operations are consistent with the WTHP notice ~~and will not take~~
34 ~~protected or listed plant or animal species present within the~~
35 ~~proposed harvest area, or that all conditions of an incidental take~~
36 ~~permit will be fulfilled.~~

37 ~~(f)~~

38 (g) The registered professional forester certifies that all
39 operations will be conducted pursuant to this article and its

1 applicable operational regulations pursuant to this chapter *and the*
2 *rules of the board.*

3 ~~(g)~~

4 (h) The registered professional forester certifies that all
5 necessary work has been completed preparatory to operations such
6 as identification of watercourse and lake protection zone, roads,
7 stream crossing design, tree marking, unit layout, harvest boundary
8 delineation, and any other requirements established by the director.

9 ~~(h)~~

10 (i) The licensed timber operator has been provided operational
11 guidance in a format that is acceptable to the director and that is
12 included as part of the WTHP notice of operations.

13 4595.23. When a responsible or trustee agency nonconcurs
14 with a WTHP notice, the nonconcurrence shall be resolved utilizing
15 the appeals process defined in Section 4582.9. Operations shall
16 not commence until the nonconcurrence is resolved. The hearing
17 shall be held within 30 days of the nonconcurrence unless
18 consultation among the trustee and responsible agencies is
19 undertaken pursuant to Section 4595.24 in which case the hearing,
20 if necessary, shall be conducted within 30 days of the conclusion
21 of consultation.

22 4595.24. The director may initiate consultation among the
23 trustee and responsible agencies when nonconcurrence with a
24 WTHP notice occurs in an attempt to achieve agreement among
25 the agencies that would eliminate the basis of such nonconcurrence
26 and that is adopted in a plan amendment. ~~Except as provided in~~
27 ~~paragraph (6) of subdivision (h) of Section 4595.20, an amendment~~
28 ~~to a notice shall be required if the presence of threatened,~~
29 ~~endangered, or candidate species was not previously evaluated.~~
30 *An amendment to a WTHP shall be required if the presence of*
31 *threatened, endangered, or candidate species was not previously*
32 *evaluated.*

33 4595.25. The director shall approve a WTHP notice unless the
34 ~~information contained in the notice is incorrect, incomplete, or~~
35 ~~misleading in a material way, or inconsistent with the WTHP. If~~
36 ~~the findings required for a notice to authorize harvest operations~~
37 ~~cannot be made, the plan submitter shall not commence the~~
38 ~~proposed timber operations until amending the WTHP to cover~~
39 ~~the proposed operations or account for changed environmental~~
40 ~~circumstances or new information regarding environmental~~

1 impacts. The amendment to the WTHP shall be limited to
2 addressing only the proposed timber operations that were not
3 included and analyzed in the WTHP, or new environmental
4 conditions or information regarding environmental impacts which
5 was not known and could not have been known with the exercise
6 of reasonable diligence at the time the WTHP was approved
7 *director finds that a notice is inadequate pursuant to Section*
8 *4595.22. The plan submitter shall not commence the proposed*
9 *timber operations until the WTHP has been amended. The*
10 *amendment to the WTHP shall contain sufficient information and*
11 *analysis to address any deficiencies that prevented the director*
12 *from approving the notice.*

13 4595.26. Upon the completion of activities pursuant to the
14 WTHP notice, the landowner shall file a report of satisfactory
15 completion pursuant to Section 4585 and a stocking report pursuant
16 to Section 4587. The director shall comply with Section 4586. The
17 completion report shall identify those areas in which operations
18 were conducted. The registered professional forester who prepares
19 the WTHP, notice, or report, or any other registered professional
20 forester who is employed by the WTHP landowner or operator,
21 shall report to the owner or operator and the department if there
22 are deviations from the WTHP.

23 4595.27. If the board finds that a registered professional forester
24 has made a material misstatement in a WTHP, notice, or report
25 under this article, the board shall take disciplinary action against
26 him or her as provided in Section 775.

27 4595.28. (a) A WTHP shall be suspended by the department
28 if any of the following conditions apply:

29 (1) It is determined by the department that the provisions of the
30 WTHP are not being met.

31 (2) The WTHP landowner fails to file a compliance report,
32 certified by a registered professional forester, as required under
33 Section 4595.12.

34 (3) Persistent violations of the WTHP are detected.

35 (4) Timber operations are causing violations of permits issued
36 by the department, the Department of Fish and Game, a California
37 regional water quality control board, or any other trustee,
38 responsible, or other reviewing public agency.

39 (5) The landowner files an application for a timberland
40 conversion permit pursuant to Article 9 (commencing with Section

1 4621) for lands within the boundaries of an approved WTHP or a
2 party proposes to remove lands from within the boundaries of an
3 approved WTHP or from a timberland production zone pursuant
4 to the California Timberland Productivity Act of 1982 (Article 1
5 (commencing with Section 51100) of Chapter 6.7 of Part 1 of
6 Division 1 of Title 5 of the Government Code).

7 (b) A WTHP suspended under subdivision (a) shall remain
8 suspended until the director finds the WTHP is in compliance with
9 the approved WTHP and other applicable law. If, based on
10 substantial evidence, the director determines the noncompliance
11 to be severe, he or she may cancel or revoke the WTHP.

12 (c) Upon the suspension of a WTHP, no additional timber
13 operations shall occur pursuant to the current WTHP notice, and
14 no additional notices shall be accepted by the department until
15 appropriate corrections are completed.

16 (d) Upon suspension or cancellation of the WTHP, tree removal
17 operations pursuant to an active WTHP notice are prohibited. Once
18 operations on the WTHP notice have ceased, all required erosion
19 control and the application of site-specific mitigation and road
20 maintenance described in the WTHP to avoid adverse
21 environmental impacts shall be completed.

22 (e) During a period of WTHP suspension or cancellation, a
23 landowner may submit timber harvesting plans to the department
24 for approval under Section 4581, and, if approved, may operate
25 pursuant to those plans while the conditions described in this
26 section are under consideration by the director. However, if the
27 impacts of those harvest plans are equivalent or more significant
28 than the operations evaluated in the WTHP, those plans shall not
29 be approved.

30 (f) A landowner whose WTHP is suspended or canceled under
31 this section may, within 10 days from the date of receipt of the
32 director's action on the WTHP, request a public hearing before
33 the board to determine if the director's action was appropriate.

34 4595.29. In addition to an inspection provided for under Section
35 4604, the department shall provide a compliance inspection of the
36 area in which timber operations are being or are to be conducted
37 pursuant to an approved notice within one year of the approval
38 date of the WTHP, and every year thereafter, during the effective
39 period of the WTHP, to ensure compliance with this chapter and

1 the rules and regulations of the board. This section does not limit
2 the authority of an agency to inspect pursuant to any other law.

3 4595.30. (a) Notwithstanding Section 10231.5 of the
4 Government Code, on or before December 31, 2017, and every
5 five years thereafter, the director shall inform the Legislature of
6 his or her evaluation of this article, including the identification of
7 any recommended amendments.

8 (b) A report submitted pursuant to subdivision (a) shall be
9 submitted in compliance with Section 9795 of the Government
10 Code.

11 4595.31. ~~Timberland~~ (a) *It is the intent of the Legislature that*
12 *the mitigation provisions of this article prevent further reduction*
13 *in the extent of California's timberland and its associated climate*
14 *and public benefits.*

15 (b) ~~Timberland~~ conversions of greater than one acre to nonforest
16 uses, including all harvesting necessary to complete a timberland
17 conversion, shall be fully mitigated, including, but not limited to,
18 mitigation for any depletion of current and future *onsite biological*
19 carbon stocks.

20 SEC. 3. No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 the only costs that may be incurred by a local agency or school
23 district will be incurred because this act creates a new crime or
24 infraction, eliminates a crime or infraction, or changes the penalty
25 for a crime or infraction, within the meaning of Section 17556 of
26 the Government Code, or changes the definition of a crime within
27 the meaning of Section 6 of Article XIII B of the California
28 Constitution.

29 SEC. 4. Section 4604 of the Public Resources Code is amended
30 to read:

31 4604. (a) The department shall provide an initial inspection
32 of the area in which timber operations are to be conducted within
33 10 days from the date of filing of the timber harvesting plan,
34 watershed timber harvest plan (WTHP), or nonindustrial timber
35 management plan, or a longer period as may be mutually agreed
36 upon by the department and the person submitting the plan, except
37 that the inspection need not be made pursuant to the filing of a
38 timber harvesting plan if the department determines that the
39 inspection would not add substantive information that is necessary

1 to enforce this chapter. The department shall provide for
2 inspections, as needed, as follows:

3 (1) During the period of commencement of timber operations.

4 (2) When timber operations are well under way.

5 (3) Following completion of timber operations.

6 (4) At any other times as determined to be necessary to enforce
7 this chapter.

8 (b) (1) The Department of Fish and Game, the California
9 regional water quality control boards, or the State Water Resources
10 Control Board, if accompanied by Department of Forestry and
11 Fire Protection personnel and after 24-hour advance notification
12 is given to the landowner, may enter and inspect land during normal
13 business hours at any time after commencement of timber harvest
14 plan activities on the land and before the director issues a report
15 of satisfactory completion of stocking pursuant to Section 4588
16 or at any time before the end of the first winter period following
17 the filing of a work completion report pursuant to Section 4585,
18 whichever is later. A member of the inspection party may utilize
19 whatever measurement and evaluation devices, including, but not
20 limited to, photographic equipment and temperature measurement
21 devices, that are determined to be necessary, when participating
22 in an inspection of an area pursuant to subdivision (a) or after
23 commencement of timber harvesting plan activities pursuant to
24 this subdivision.

25 (2) Photographs taken during inspections shall be clearly labeled
26 as to time, date, and location and shall be the property of the
27 department and part of the inspection record. The inspection record
28 shall be subject to all provisions of the California Public Records
29 Act (Chapter 3.5 (commencing with Section 6250) of Division 7
30 of Title 1 of the Government Code).

31 (3) This subdivision does not limit the authority of an agency
32 to inspect pursuant to any other law.

33 SEC. 5. No reimbursement is required by this act pursuant to
34 Section 6 of Article XIII B of the California Constitution for certain
35 costs that may be incurred by a local agency or school district
36 because, in that regard, this act creates a new crime or infraction,
37 eliminates a crime or infraction, or changes the penalty for a crime
38 or infraction, within the meaning of Section 17556 of the
39 Government Code, or changes the definition of a crime within the

1 meaning of Section 6 of Article XIII B of the California
2 Constitution.

3 However, if the Commission on State Mandates determines that
4 this act contains other costs mandated by the state, reimbursement
5 to local agencies and school districts for those costs shall be made
6 pursuant to Part 7 (commencing with Section 17500) of Division
7 4 of Title 2 of the Government Code.

O